

§ 159B-5. Joint ownership of a project; provisions of the contract or agreement with respect thereto.

Each municipality shall own a project in proportion to the amount of the money furnished or the value of property or other consideration supplied by it for the planning, development, acquisition or construction thereof, and shall be entitled to a percentage share of the output and capacity therefrom equal to such ownership proportion in such project.

Each municipality shall be severally liable for its own acts and not jointly or severally liable for the acts, omissions or obligations of others, and no money or property or other consideration supplied by any municipality shall be credited or otherwise applied to the account of any other municipality, nor shall the share of any municipality in a project be charged directly or indirectly with any debt or obligation of any other municipality or be subject to any lien as a result thereof. The acquisition of a project shall include, but shall not be limited to, the purchase or lease of an existing, completed project and the purchase of a project under construction. A municipality participating in the joint or several planning, financing, construction, reconstruction, acquisition, improvement, enlargement, betterment, ownership, operation or maintenance of any project under this Chapter may furnish money derived solely from the proceeds of bonds or from the ownership and operation of its electric system, or both, and provide property, both real and personal, services and other considerations.

Any contracts entered into by municipalities with respect to ownership in a project shall contain such terms, conditions and provisions, not inconsistent with the provisions hereof, as the governing boards of the municipalities shall deem to be in the interests of the municipalities. Any such contracts shall be ratified by resolution of the governing board of each municipality spread upon its minutes. Any such contracts shall include, but shall not be limited to, the following:

- (1) The purpose or purposes of the contract;
- (2) The duration of the contract;
- (3) The manner of appointing or employing the personnel necessary in connection with the project;
- (4) The method of financing the project, including the apportionment of costs and revenues;
- (5) Provisions specifying the ownership interests of the parties in real property used or useful in connection with the project, and the procedures for the disposition of such property when the contract expires, is terminated or when the project, for any reason, is abandoned, decommissioned or dismantled;
- (6) Provisions relating to alienation and prohibiting partition of a municipality's interest in a project, which provisions shall not be subject to any provision of law restricting covenants against alienation or partition;
- (7) Provisions for the construction of a project, which may include the determination that one participating municipality or any person, firm or corporation may construct the project as agent for all the parties;
- (8) Provisions for the operation and maintenance of a project, which may include the determination that one participating municipality or any person, firm or corporation may operate and maintain the project as agent for all the parties;
- (9) Provisions for the creation of a committee of representatives of the participating municipalities with such powers of supervision of the construction and operation of the project as the contract, not inconsistent with the provisions of this Chapter, may provide;

- (10) Provisions that if one or more of the municipalities shall default in the performance or discharge of its or their obligations with respect to the project, the other party or parties may assume, pro rata or otherwise, the obligations of such defaulting party or parties and may succeed to such rights and interests of the defaulting party or parties in the project as may be agreed upon in the contract;
- (11) Methods for amending the contract;
- (12) Methods for terminating the contract; and
- (13) Any other necessary or proper matter.

For the purpose of paying its respective share of the cost of a project or projects, a municipality may issue its bonds as provided in this Chapter, and, notwithstanding the provisions of any other law to the contrary, may secure the payment of the principal of, premium, if any, and interest on such bonds by a lien and charge on all, or any portion of, the revenue derived or to be derived from the ownership and operation of its system or facilities for the generation, transmission, or distribution of electric power or energy or its interests in any project or projects, or a combination of such revenues. Provided that all bonds issued under the provisions of this Chapter shall be authorized and issued by the governing board of a city, town, or other unit of municipal government created under the laws of the State.

In connection with any project undertaken pursuant to this Chapter, a municipality shall have all of the rights and powers granted to a joint agency by subdivisions (12) and (13) of G.S. 159B-11.

Notwithstanding the provisions of any other law to the contrary, any contracts with respect to the sale or purchase of capacity, output, power or energy from a project may extend for a period not exceeding 50 years from the date a project is estimated to be placed in normal continuous operation; and the execution and effectiveness thereof shall not be subject to any authorizations or approvals by the State or any agency, commission or instrumentality or political subdivision thereof except as in this Chapter specifically required and provided. (1975, c. 186, s. 1; 1983, c. 574, ss. 2-2.6.)